

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

DATE: June 17, 2016

JUDGE:
JOHN D. LOVE

REPORTER: Shawna Hicks

LAW CLERK: Jenna Gillingham

COURTROOM DEPUTY: Sharon Baum

TINNUS ENTERPRISES, LLC, ET AL. V TELEBRANDS CORPORATION INC., ET AL.	CIVIL ACTION NO: 6:16-cv-33 PRELIMINARY INJUNCTION HEARING
ATTORNEYS FOR PLAINTIFF	ATTORNEY FOR DEFENDANTS
See attached sign in sheets	See attached sign in sheets

On this day, came the parties by their attorneys and the following proceedings were had:

OPEN: 1:30 p.m.

ADJOURN: 5:09 p.m.

TIME:	MINUTES:
1:30	Case called. Parties announced they are here and ready.
1:33	Mr. Findlay will make a statement with regard to what was brought up this morning.
	Mr. Lee responds the retailers' position that the Court should not take any action on preliminary injunction.
1:36	Judge responds. The Court will join Zuru as an involuntary plaintiff in the retailer case.
	Mr. Lee would like a moment to address with co-counsel.
	Judge indicates Zuru should be part of the retailer case, a stay in the retailer case. I will give you an opportunity to discuss and get back to me. Let us begin the hearing, 10 minutes for opening statement. Place the Plaintiff on a one hour time limit and the Defendants the same. Plaintiff may then make its opening statement.
1:39	Mr. Dunlap begins opening statement. The courtroom is now sealed.
	Judge has representatives step out and phone is on mute. The transcript is sealed at this time.

TIME:	MINUTES:
1:42	Mr. Dunlap continues his opening statement with discussion of price erosion. Ask that you consider this preliminary injunction on an expedited basis.
1:49	The Courtroom is now unsealed and the transcript is unsealed.
1:49	Mr. Underhill begins his opening statement.
1:58	Mr. Dunlap makes an objection that the information was under another Court's protective order.
	Judge stresses that the parties must be very careful. Mr. Underhill your time is up.
1:59	Ms. Mowbray was sworn and begins testimony.
	Mr. Dunlap asks that the retailers be excused. The transcript is also sealed at this time.
	Ms. Mowbray continues her testimony.
	Objection by Ms. Grigsby.
	Judge notes the objection, as to demonstration it is overruled.
2:07	Ms. Mowbray continues her testimony.
2:13	Ms. Grigsby begins her cross examination of Ms. Mowbray.
	Ms. Mowbray is asked to look at Exhibit 30, paragraph 4 of the Declaration of Andy Prince in the binder. Ms. Mowbray may step down.
	Mr. Dunlap called Barry Kudrowitz and he is sworn. The retailers are allowed back in the courtroom and this portion of the transcript is unsealed.
2:19	Mr. Spendlove begins questioning of Mr. Kudrowitz. No further questions.
2:29	Mr. Maurer begins cross examination. No further questions.
2:37	Mr. Dunlap calls Dr. Perryman and we need to seal the courtroom and transcript again. Dr. Perryman was sworn.
2:38	Mr. Putbrese begins questioning of Dr. Perryman.
2:54	Mr. Underhill begins cross examination. No further questions.
	Judge sends Mr. Underhill back to the podium. Any redirect? You may step down. Retailers can return and transcript is unsealed.
3:00	Ms. Harper was sworn. Mr. Olauson puts on the record that all parties agree that experts are all well qualified.

TIME:	MINUTES:
	Mr. Olauson begins questioning of Ms. Harper. No further questions.
3:06	Mr. Maldonado begins cross examination of Ms. Harper. No further questions.
	Mr. Dunlap states they have no further witnesses.
	Judge states we will take a brief recess. Plaintiff used 47 minutes and Defendants have used 18 at this time. Mr. Iyer will be called first. Anything further before break?
3:22	We are back in session. Defendant will begin the presentation of their evidence.
3:22	Mr. Iyer is called and sworn.
	Mr. Maldonado begins questioning of Mr. Iyer. No further questions.
3:32	Mr. Dunlap begins cross examination. Mr. Iyer steps down. Defendant calls Dr. Kameron.
3:34	Dr. Kameron has been sworn and Mr. Underhill begins questioning.
	Mr. Dunlap objects to leading questions.
3:59	Judge directs him not to ask leading questions.
	Mr. Underhill continues his questioning of Dr. Kameron. No further questions.
4:00	Mr. Spendlove begins cross examination. Mr. Spendlove hands the witness his previous testimony and points to Page 108, Line 16. The witness is handed a Balloon Bonanza demonstrative. No further questions.
4:11	Mr. Underhill begins redirect.
	Defendant calls Dr. Hatch. The retailers are leaving the Courtroom and the transcript is sealed.
4:13	Dr. Hatch is sworn.
	Mr. Love begins questioning.
	Mr. Dunlap objects.
	Judge overrules the objection.
	Mr. Love continues questioning. I am showing you Defendant's Exhibit 53.

TIME:	MINUTES:
	Judge states that time is up. Any cross examination?
4:21	Mr. Putbrese begins cross examination. Witness is handed a copy of his report and asked to turn to page 7.
	Judge states time is up. Dr. Hatch may step down. We will proceed to closing statements. I will hear first from the Plaintiff.
4:24	Mr. Putbrese begins closing statement.
	Mr. Underhill objects.
	Judge the objection is sustained if it is outside the record.
4:40	Mr. Putbrese continues his closing statement.
4:45	Mr. Underhill begins his closing statement.
4:58	Mr. Dunlap objects it was not put into evidence.
	Judge overrules, objection is noted. If it is not in the record I am not going to use it.
4:59	Mr. Underhill states these numbers are in Dr. Hatch's report, Exhibit 4-B.
	Mr. Dunlap objects to Mr. Ratliff's price erosion.
	Judge states time is up and I will hear from Mr. Lee for five minutes.
5:01	Mr. Lee begins his closing statement.
	Mr. Dunlap same objection. Judge makes same ruling if it is not in the record it will not be used.
	Mr. Lee continues his statement.
5:06	Judge states if there is an objection any one wants to submit I will give you until Monday at 5:00 to submit that and attach no more than 2 pages and it can be filed under seal and any response to that by Wednesday at 5:00. Anything further?
5:07	Mr. Underhill asks for additional time.
5:09	Judge denies the request. Nothing further, we are adjourned.

6:16-CV-33**TINNUS ENTERPRISES, LLC, ET AL.****V.****TELEBRANDS CORPORATION, ET AL****June 17, 2016 – Preliminary Injunction Hearing****PLEASE PRINT CLEARLY**

ATTORNEY NAME	REPRESENTING
Tom Dunlap	Plaintiffs
Eric Fincllay Delby Guter	" "
Robert Spandlare	" "
Kelly Webster	Tinnus in '34 action
Jeff Andriot	Plaintiffs
Likki Kahn	" "
Cortland Putbrese	" "

IF YOU HAVE YOUR CLIENTS PRESENT, PLEASE PROVIDE NAME & COMPANY

CLIENT NAME	COMPANY
Anna MonGray	ZURU
Josh Malone	Tinnus

6:16-CV-33

TINNUS ENTERPRISES, LLC, ET AL.

V.

TELEBRANDS CORPORATION, ET AL
 June 17, 2016 – Preliminary Injunction Hearing

PLEASE PRINT CLEARLY

ATTORNEY NAME	REPRESENTING
Lance Lee	Telebrands / All Retailers
Greg Love	" "
Mike Underhill	↓
Stacey Grigsby	
Kate Ferguson	
Eric Master	
Elana Aranj	
Rob Maltondo	
Tara Elliott	Walmart Stores, Inc.

IF YOU HAVE YOUR CLIENTS PRESENT, PLEASE PROVIDE NAME & COMPANY

CLIENT NAME	COMPANY
Rah Iyer	Telebrands
Roz Mitchell	Walmart Stores, Inc.

Retailers

Richard Russell - Walgreens

Brent Beeler - Sears

Rick Wilborn - TRU

Joe Pittman - Kohl's

Matt Clark - BBB

Bala Iyer - Telebrands

Mark Wilkinson - Kroger

Rosalyn Mitchell - Walmart